

## Conformity Requirements for State UI Laws

### *Unemployment Insurance Extended Benefits*

#### **Background**

Extended Benefits (EB) are available to workers who have exhausted regular unemployment compensation (UC) during periods of high insured unemployment. The basic EB program provides up to thirteen (13) additional weeks of benefits. If a state has implemented the optional trigger based on the total unemployment rate (TUR), seven (7) additional weeks (20 weeks maximum) of additional benefits are available during periods of “high unemployment.”

#### **Federal Law**

Section [3304](#)(a)(11) of the Federal Unemployment Tax Act (FUTA) requires that “extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970” ([EUCA](#)). This means state EB provisions must conform to EUCA requirements as a condition of certification for the normal tax credit under FUTA.

With certain exceptions, the Federal government pays half the costs of EB. Funds for the Federal share of EB come from the FUTA tax.

#### **Frequently Asked Questions**

1. When are Extended Benefits payable in a state?

§203, [EUCA](#), provides the mechanism for determining whether EB is payable. This section defines when a state will “trigger” on and off an EB period. There is one mandatory trigger and two optional triggers.

States must pay EB (for 13 weeks) if the insured unemployment rate (IUR) for the previous 13 weeks is at least 5 percent and is 120 percent of the average rate for the same 13-week period in the two previous years.

At its option, a state may pay EB (for 13 weeks) if the IUR for the previous 13 weeks is at least 6 percent, regardless of the experience in the previous years. Also at its option, a state may pay EB (for 13 weeks) if the average TUR, seasonally adjusted, for the most recent three months, is at least 6.5 percent and is 110 percent of the rate for the same three-month period in either of the two previous years. If a state law provides for the optional TUR trigger, it must also provide that if the TUR is at least 8 percent and is 110 percent of the rate for the same three-month period in either of the two previous years, the duration of EB increases from 13 to 20 weeks.

An EB period ends or “triggers off” whenever the above criteria are not met, except that once EB triggers on, the EB period must last at least 13 weeks. Once EB triggers off, it cannot trigger on again before the 14<sup>th</sup> week after the end of the prior EB period.

2. How much does an individual receive under EB?

The weekly benefit amount of EB is the same as the weekly benefit amount that the individual received for regular UC. The total amount of EB that an individual could receive may be fewer than 13 weeks (or fewer than 20 weeks) if the state triggers off EB while the individual is receiving EB.

3. Does Federal law impose any special conditions in order for an individual to receive EB?

Yes. Section 202(a), [EUCA](#), provides eligibility conditions which claimants must meet to be eligible for EB.

- Claimants whose prospects of finding work are “not good” must “actively engage in seeking work.” That is, claimants must conduct a systematic and sustained search for work each week they claim EB. There are only two exemptions to this requirement. There is an optional exemption for claimants who are hospitalized for treatment of an emergency or a life threatening condition or who are on jury duty. This option is available to states only if a similar exemption is allowed for claimants receiving regular UC. The second exemption is for claimants in approved training.
- Claimants must accept any offer of suitable work and must apply for any suitable work to which they are referred by the state agency. While suitable work is defined by state law, EUCA defines suitable work for individuals whose prospects for finding work are “not good.”
- Claimants will be disqualified for a period of 4 weeks and until they have earned remuneration equal to 4 times their average weekly benefit amount (4 x 4 disqualification) for refusing suitable work and for failure to actively seek work.
- Disqualification for regular UC for voluntary leaving, misconduct, or refusal of suitable work must be satisfied by subsequent employment.
- Claimants must have 20 weeks of full-time insured employment or the equivalent in insured wages (40 x WBA or 1 1/2 x high quarter wages) in their base period to qualify for EB.

4. How are states reimbursed for EB by the Federal government?

Federal sharing of benefits is available only if the provisions of EUCA are administered by the state. Section 204, [EUCA](#), provides that states will be reimbursed for one-half the

amount of sharable regular compensation or sharable extended compensation paid to claimants.

There is no Federal sharing for EB attributable to employment with state and local governments or Indian tribes because these entities pay no FUTA tax. (Note: This does not apply to all reimbursable employers. EB attributable to employment with nonprofit organizations is eligible for Federal sharing.)

There are two cases where the Federal share of EB depends on optional state law provisions. There is no Federal share for the first week of EB if the state law does not require a non-compensable waiting week in its regular UC program. If any benefit amounts which are not whole dollar amounts are not rounded down to the next whole dollar, there is no Federal share for the amount not rounded down. (See UIPL 4-83.)

## **References**

[Orange Book](#). Draft Legislation to Implement the Employment Security Amendments of 1970.

[Green Book](#). Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 and Supplement 2.

[UIPL 14-81](#). Amendments made by PL 96-499 (Omnibus Reconciliation Act of 1980) Which Affect the Unemployment Compensation program. Discusses suitable work, non-compensable waiting week, work search.

[UIPL 16-81](#). Interstate Claim - P.L. 96-364, Amendment to the Federal-State Extended Unemployment Compensation Act of 1970. Discusses denial of EB to interstate claimants whose agent State not on EB does not apply for first two weeks of EB.

[GAL 22-81](#). Clarification of the Requirements for Implementing PL 96-499 (Omnibus Reconciliation Act of 1980). Q and A regarding active work search, refusal of suitable work, and disqualifications under EB.

[UIPL 1-83](#). Determination of Whether Extended Benefit Claimant's Prospects of Obtaining work in Customary Occupation "Within Reasonably Short Time" are Good.

[UIPL 4-83](#). Amendments made by PL 97-248 (Tax Equity and Fiscal Responsibility Act of 1982), Which Affect the Federal-State Unemployment Compensation Program.

[UIPL 41-83](#). Amendments made by PL 98-21 (Social Security Act Amendments of 1983), Which Affect the Federal-State Unemployment Compensation Program. Discusses hospitalization and jury duty.

[UIPL 45-92](#). Effect of the changes made by the Unemployment Compensation Amendments of 1992 (P.L. 102-318). Discusses optional TUR trigger; temporary suspension of certain requirements; and amendment to 20-weeks of work requirement.

[EB Program Regulations. 20 CFR Part 615](#) Published at 53 FR 27926 (July 25, 1988).